

that reason.” *Shane Group, Inc. v. Blue Cross Blue Shield*, 825 F.3d 299, 306 (6th Cir. 2016); *see also* L.R. 5.03 (requiring demonstration of “compelling reasons to seal the documents and that the sealing is narrowly tailored to those reasons”). However, courts also recognize that “the privacy right of participants” is an important interest which may support sealing relevant documents. *Brown*, 710 F.2d at 1179.

In particular, sealing of documents may be appropriate where they contain private medical information. *E.g.*, *Gardner v. Dye*, No. 3:15 C 00669, 2016 WL 10749386, at *4 n.2 (M.D. Tenn. Aug. 16, 2016) (granting motion to file “confidential medical records” under seal; *Ellis v. United States*, No. 3:08-CR-167, 2013 WL 5236650, at *1 (E.D. Tenn. Sept. 17, 2013) (same); *see also Moore v. CVS Rx Serv., Inc.*, 660 Fed. App’x 149, 153 n.4 (3rd Cir. 2016) (citing *Doe v. Delie*, 257 F.3d 309, 315 (3d Cir. 2001)) (recognizing “the important privacy interest in one’s medical records” in granting motion to file under seal). Indeed, in *Shane Group*, the Sixth Circuit found that sealing was inappropriate based, in part, on its finding that “the sealed materials reveal[ed] scarcely any ‘confidential patient-health information,’ which [was] unsurprising given that such information would be irrelevant to the antitrust issues presented in [that] case.” 825 F.3d at 307. By acknowledging this contrast, *Shane Group* itself suggests that where confidential patient-health information *is* involved and central to the case, sealing may be appropriate.

Compelling reasons to seal the unredacted Complaint exist here. Due to the nature of the case, the Complaint contains detailed information about Defendant’s private health records, which is necessarily identifiable as Defendant’s. There is no meaningful interest in public disclosure, and Defendant should have the right to keep such records private. *See Gardner*, 2016 WL 10749386, at *4 n.2; *Ellis*, 2013 WL 5236650, at *1; *Moore* 660 Fed. App’x at 153 n.4.

And unlike in *Shane Group*, Defendant's medical records are an important, unavoidable aspect of this case. Moreover, Berkshire's request is narrowly tailored to this compelling interest. Berkshire has filed publicly a redacted version of the Complaint, which redacts only the information concerning Defendant's private medical records. Likewise, the request to seal pertains only to such information.

For the foregoing reasons, there is a compelling need for Berkshire to file the unredacted Complaint under seal, and the request is narrowly tailored to that need. Therefore, Berkshire respectfully requests that this Court grant its Motion for Leave and allow Plaintiff to file its Complaint in unredacted form under seal.

Respectfully submitted,

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